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10/771,444

02/05/2004

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EXAMINER

CHAPMAN, GINGER T

ART UNIT

PAPER NUMBER

3761

MAIL DATE

DELIVERY MODE

02/07/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/771,444

Applicant(s)

FUJISATO, RYOSAKU

Examiner

Ginger T. Chapman

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 5-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/13/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of the claims

1. Claims 1-12 are pending in the application, claims 5-12 are withdrawn from consideration as being directed to a nonelected invention.

Withdrawn objections:

2. The objection to the abstract of the disclosure, made of record in the previous Office action, is withdrawn in view of Applicants' amendment to the abstract.
3. The objection to claim 2 for informalities, made of record in the previous Office action, is withdrawn in view of Applicants' amendment to the claim.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kostrov et al (US 6,706,006 B2) in view of Hequet (FR 2,643,574 A1) and further in view of French et al (US 6,485,452 B1).

4. With respect to claim 1, as best depicted in Figures 2-3, Kostrov discloses a suction-cleansing device (fig. 2) comprising a vessel body (5) having a hollow portion (7); an air/liquid jetting port (15) secured at the front end portion of the vessel body; a liquid-introducing pipe (3) connected (8) to the circumferential wall of the rear part side of the vessel body in the tangential

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direction (fig. 2a; c. 3, l. 26 and ll. 50-62); an air/liquid jet guiding portion that is disposed at the outer circumferential portion of the air/liquid jetting port (15).

5. Kostrov teaches the claimed invention except for expressly teaching the hollow portion profile is converged from its rear part side to its front part side. Kostrov teaches the hollow portion can have a cylindrical shape or a spherical shape (c. 5, l. 19 and l. 25, respectively), although this teaching may not appear to be depicted in the Figures. Hequet, in the Abstract, teaches a spray head for mixing an air/liquid, thus disclosing a desire for such. As seen in Figure 3 and 4, Hequet teaches a vessel body (20) having a hollow portion (27) whose profile is converged from its rear part to its front part side, and air/liquid jetting port (28) secured at the front end portion (21) of the vessel body (20); and a liquid introducing pipe (26) connected in the tangential direction (abstr.).

6. Both Kostrov and Hequet are concerned with providing a device for mixing and spraying an air/liquid mix and as such, both references are reasonably pertinent to the problem of spraying an air/liquid mix and thus may be considered analogous art since the subject matter disclosed therein is relevant to the same noted particular problem. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the hollow portion of Kostrov having a profile that is converged from its rear part side to its front part side as taught by Hequet since Hequet states, in the Abstract, that the advantage to forming the hollow portion profile with this design is that the hollow portion profile provides concave and convex rounded profile shapes which increase the passage for supplying the air/liquid and thereby providing a vortex or swirling action in the hollow for mixing the air/liquid.

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7. Kostrov discloses the claimed invention except for Kostrov does not teach that the outer circumferential portion of the air/liquid jet-guiding portion is widened. French teaches the outer circumferential portion of an air/liquid jet-guiding portion is widened. French, at c. 1, ll. 63-67 to c. 2, ll. 1-3, provides motivation to widen the air/liquid jet guiding portion to direct the flow of water to the site being cleansed and to prevent water splashing beyond the site where the water is desired to be directed i.e., prevent water from splashing onto areas where it is not desired for the water to splash. As seen in Figures 1-3, 7 and 8, French teaches a jet-guiding portion (54) that is disposed at the outer circumferential portion of the air/liquid jetting port and is widened to open from the air liquid jetting port toward the jetting direction. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the suction-cleansing device of Kostrov comprising an air/liquid jet-guiding portion as taught by French, since French states at c. 2, ll. 50-52 that the benefit of forming the device with this design is that it protects the surroundings from being splashed during use of the device.

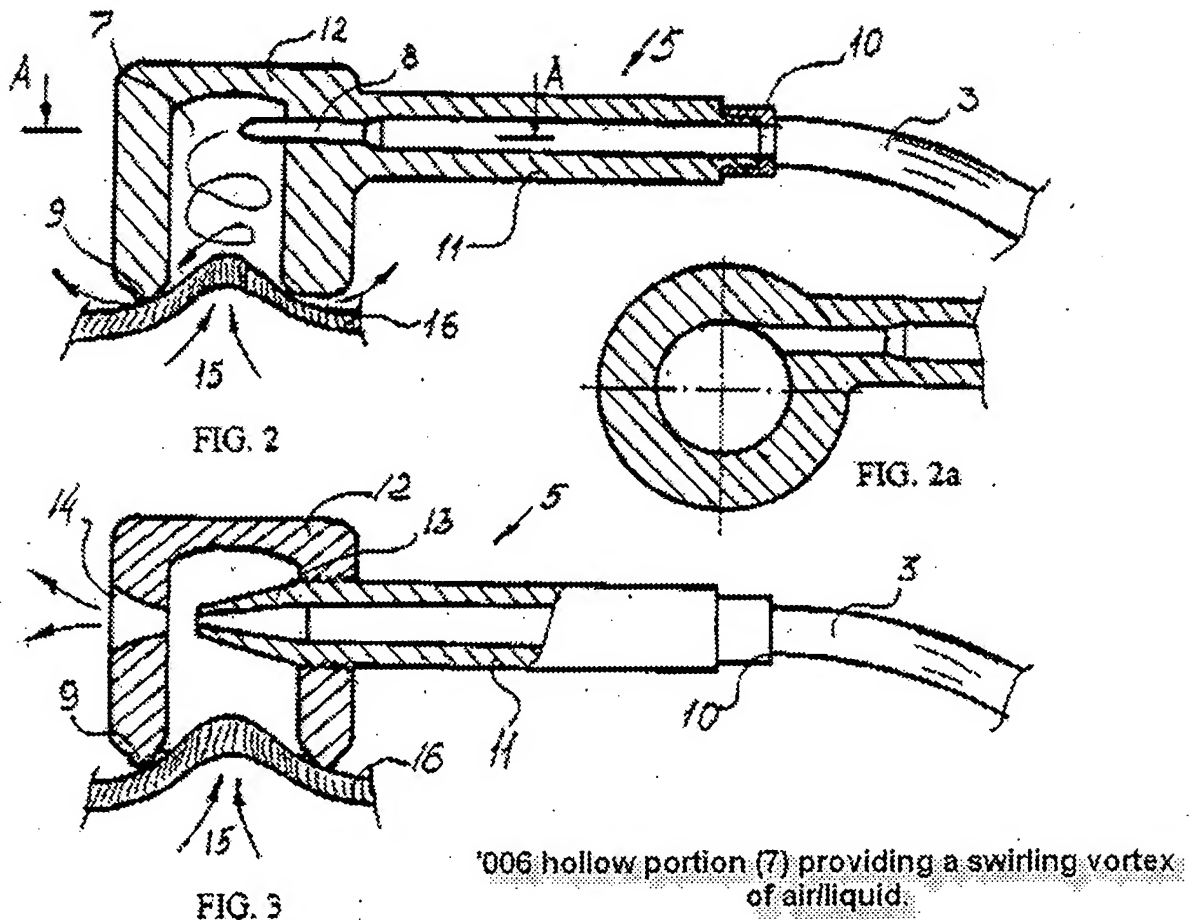
8. The examiner notes that it is well-settled that inventor may be own lexicographer. MPEP § 2111.02. Therefore, although the instant claims are directed to "a suction-cleansing device" while the Kostov device is directed to a "hydro-suction vibration bio-stimulator", the examiner notes that the prior art device satisfies the claimed structural limitations and performs the substantially identical function in the substantially identical manner as described in the following paragraph for clarity:

9. As best depicted in Figures 2 and 3, reproduced below for convenience, the air/liquid mixture is swirled in the hollow portion such that the rotation motion of the liquid causes a decrease of pressure and increase and thus creates cavitation bubbles of air on an air axis formed

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in the hollow portion thereby causing a suction effect on the users skin which is then sucked into the air/liquid jetting port thereby massaging the skin. The suction of the skin into the jetting port causes the momentary closing of the port, and that, in turn, leads to an increase of pressure inside the hollow portion due to the fluid flow through liquid-introducing pipe temporarily eliminating the suction force. This causes the skin to return to its original un-suctioned state for a moment, then again undergoes the next suction cycle as the process repeats itself. The auto-oscillation process of the suction cycles has a frequency, depending on the decrease of pressure inside the hollow portion, which creates a pulsing or vibration effect. This effect is referred to in the instant Specification as a "breathing effect" (c. 3, l. 50 to c. 4, l. 30).

10. The swirling or vortex motion created in the prior art hollow portion is reproduced below for clarity:



11. The examiner further notes that prior art structure (14) is identified as an "outlet" for creating a suction force in the vicinity of outlet (15) (c. 4, ll. 35-40). However, it is the examiners position that, absent a showing to the contrary, the port (14) allows air to flow both in and out of the port as the pressure inside the hollow portion is increased and decreased. Figure 3 appears to depict the above-noted phase of the cycle wherein the pressure inside the hollow is decreased and the skin is suctioned into the jetting port. The examiner position is based on the structure is disclosed as a hole; a hole (unlike a one-way valve, by way of example) will allow

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two-way flow in and out of the hollow portion depending on whether the periodic suction force is increased causing air flow into (14) or eliminated (air flow out).

12. With respect to claim 2, as seen in Figure 3, Kostrov teaches an air self-suction port (14).

13. With respect to claim 4, Kostrov/ Hequet /French disclose the claimed invention except for the second air introduction port. Kostrov/ Hequet /French teach the general conditions of the claims, i.e. a suction-cleansing device having a rotating member and air self-suction port. With respect to the second air introducing port, it is noted by the examiner that multiples of the same structure does not provide additional patentable weight and would have been an obvious modification since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kostrov/Hequet /French as applied to claim 2 above, and further in view of Martin (US 6,962,298 B1).

14. With respect to claim 3, Kostrov/French disclose the claimed invention except for the rotating member and tank portion. Martin, at c. 2, ll. 13-18, expresses the desire for a suction-cleansing device that can be selected to provide different modes of cleansing action. As seen in Figures 1 and 8-9, Martin teaches a suction cleansing device (10) including a rotating member (16) that is attached by being screwed in a threaded portion (106) which is opened and formed at an anterior wall of the vessel body and is rotatably provided in a covered (92) manner (c. 4, ll. 4-10) centering around a position deviated from the axial center of the vessel body (70) and air self-suction port (93) that introduces air into the device is formed at a position deviated from the rotating axis of the rotating member.

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Response to Arguments

1. Applicant's arguments with respect to claims 1-4 have been considered but are moot in view of the new ground(s) of rejection.

2.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ginger T. Chapman whose telephone number is (571)272-4934.

The examiner can normally be reached on Monday through Friday 9:30 a.m. to 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ginger Chapman
Examiner, Art Unit 3761
1/31/08



TATYANA ZALUKAEVA
SUPERVISOR PRIMARY EXAMINER

